HONOURABLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No.25344 OF 2000

DATE:07-07-2006

Between:

Tamatam Anjaneyulu S/o. T. Subba Rao,
aged about 49 years,
Working as Deputy Planatation Manager,
A.P. Forest Development Corporation,
Satyavedu Division, Chittoor District.

.. Petitioner

AND

The Board of Management,
Rep. by its Chairman and Managing Director
Andhra Pradesh Forest Development Corp. Ltd.,
Registered office at 3rd Floor, UNI Building,
A.C. Guards, Hyderabad & 2 others

.. Respondents

ORDER:

This Writ Petition is filed by the petitioner, Deputy Plantation Manager, A.P. Forest Development Corporation, Chittoor District against the order of the 1st respondent-Board of Management, A.P. Forest Development Corporation Limited dated 28-07-2000 confirming the order of the

2nd respondent-A.P. Forest Development Corporation dated 16-02-2000 contending it as illegal, arbitrary and violative of principles of natural justice.

2. The case of the petitioner is that at the relevant time, he was working as Deputy Plantation Manager, Muthyapalem cashew estate, Kavali Division and he colluded with the highest bidder of the cashew estate and allowed him for cultivation of certain crops in cashew plantation. Thus, he was chargesheeted for dereliction of

duties and suppression of facts. A regular departmental enquiry was held against him. The enquiry officer held that the charges were proved against the petitioner and to that effect a report was submitted. Consequent to which, a show cause notice dated 06-11-1999 was issued to the petitioner, on receipt of which he submitted his explanation but without properly considering the explanation, the 2nd respondent imposed punishment of stoppage of five annual grade increments with cumulative effect with all financial implications by order dated 16-02-2000. Aggrieved by the same, the petitioner filed an appeal to the Board of Management and the Board passed an order confirming the order passed by the 2nd respondent, which is not legal.

3. The contention of the petitioner is that the employees working in the A.P. Forest Development Corporation Limited are governed by the provisions of the A.P. Forest Development Corporation Limited Staff Regulations 1975 (for short 'the Regulations'). As per Rule 64 of the Regulations, there is a right of appeal to the Board. Rule 68 of the Regulations deal with consideration of appeal. As per Rule 68(2) of the Regulations, in case an appeal against an order imposing any of the penalties specified in sub-rule (1) of Rule 63 or enhancing any penalty imposed, the appellate authority shall consider;

1) whether the procedure laid down in these rules have been complied with an if any whether such
non-compliance has resulted in violation of any provisions of the Constitution of India or in the failure of justice,

2) whether the findings of the disciplinary authorities are warranted by the evidence on record and

3) whether the penalty or the enhanced penalty imposed to adequate, inadequate or severe and pass orders;
   i) confirming, enhancing, reducing or setting aside the penalty or

ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case,

4. That as per the above Rules, the appellate authority has to give specific reasons for confirming the findings given by the disciplinary authority but in the case of the petitioner,
the appellate authority has not complied with the conditions laid down under Rule 63(1) of the Regulations etc.

5. The 2nd respondent alone filed an elaborate counter with regard to details of omissions and commissions of the petitioner. With regard to non-compliance of Rule 63(1) of the Regulations, it is stated in the counter that the
1st respondent discussed in the appeal and passed detailed order observing that the charges are grave and proved beyond any reasonable doubt against the petitioner and found no merit in the appeal, as such, the 1st respondent confirmed the punishment awarded by the 2nd respondent. An attempt is also made to say that the procedure claimed by the petitioner is not applicable at the relevant point of time.

6. There is no denial of the fact that the material portion of the order passed by the appellate authority is only
“the Board, on examination of the appeal, while observing that the charges are grave and proved beyond any reasonable doubt, they found no merit in the appeal and hence rejected the same.” Thus, there is no discussion on merits and demerits of the order under appeal. No doubt, there is no dispute that the charges are grave, but while confirming the order, the appellate authority has to discuss as to

how the findings of the disciplinary authority are in order and how the punishment imposed is proper etc.

7. Considering the circumstances, the order of the 1st respondent-appellate authority dated 28-07-2000 is set aside with a direction that the appellate authority shall consider the matter afresh and pass an appropriate speaking order. It is clarified that no opinion is being expressed by this Court on the merits of the case and the appellate authority is at liberty to take appropriate decision on the merits of the case and pass a reasoned order.

The Writ Petition is accordingly ordered. No costs.

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P. SWAROOP REDDY, J

Date: 7th July, 2006.

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